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 and the Proposed Class

18 PATRICK KENNY, an Arizona resident,
 19 JUSTIN SHARP, a California resident,
 20 JEREMY FEITELSON, an Iowa resident,
 and GREG FEITELSON, a Kentucky
 21 resident, on behalf of themselves and all
 others similarly situated,

22 Plaintiffs,

23 v.

24 CARRIER IQ, INC., a Delaware
 25 corporation, HTC CORPORATION, a
 Taiwanese company; HTC AMERICA,
 26 INC., a Washington corporation; and
 SAMSUNG ELECTRONICS CO., LTD. a
 Korean company,

27 Defendants.

28 CASE NO. CV-11-05774 EJD

**STIPULATION RE: EXTENSION OF
 TIME FOR DEFENDANT TO RESPOND
 TO COMPLAINT AND [PROPOSED]
 ORDER EXTENDING TIME TO
 RESPOND TO COMPLAINT**

1 WHEREAS the above-referenced plaintiffs filed the above-captioned case;

2 WHEREAS the above-referenced plaintiffs allege violations of the Federal

3 Wiretap Act and other laws by the defendants in this case;

4 WHEREAS over 50 other complaints have been filed to-date in federal district
 5 courts throughout the United States by plaintiffs purporting to bring class actions on behalf of
 6 cellular telephone and other device users on whose devices software made by defendant Carrier
 7 IQ, Inc. is or has been embedded (collectively, including the above-captioned matter, the “CIQ
 8 cases”);

9 WHEREAS, a motion is pending before the Judicial Panel on Multidistrict
 10 Litigation to transfer the CIQ cases to this jurisdiction for coordinated and consolidated pretrial
 11 proceedings pursuant to 28 U.S.C. Sec. 1407, responses to the motion supporting coordination or
 12 consolidation have been filed, and plaintiffs and defendants anticipate that additional responses
 13 will be filed;

14 WHEREAS plaintiffs anticipate the possibility of one or more consolidated
 15 amended complaints in the CIQ cases;

16 WHEREAS plaintiffs and defendant HTC America, Inc. have agreed that an
 17 orderly schedule for any response to the pleadings in the CIQ cases would be more efficient for
 18 the parties and for the Court;

19 WHEREAS plaintiffs agree that the deadline for defendant HTC America, Inc. to
 20 answer, move, or otherwise respond to their complaint shall be extended until the earliest of the
 21 following dates: (1) forty-five days after the filing of a consolidated amended complaint in the
 22 CIQ cases; or (2) forty-five days after plaintiffs provide written notice to defendants that plaintiffs
 23 do not intend to file a consolidated amended complaint; or (3) as otherwise ordered by this Court
 24 or the MDL transferee court; *provided*, however, that in the event that HTC America, Inc. should
 25 agree to an earlier response date in any of these cases, HTC America, Inc. will respond to the
 26 complaint in the above-captioned action on that earlier date;

27 WHEREAS plaintiffs further agree that this extension is available, without further
 28 stipulation with counsel for plaintiffs, to all named defendants who notify plaintiffs in writing of

STIPULATION TO EXTEND TIME TO
 RESPOND TO COMPLAINT
 CASE NO. 5:11-CV-05821-EJD

1 their intention to join this Stipulation;

2 WHEREAS this Stipulation does not constitute a waiver by HTC America, Inc. of
3 any defense, including but not limited to the defenses of lack of personal jurisdiction, subject
4 matter jurisdiction, improper venue, sufficiency of process or service of process;

5 WHEREAS, with respect to any defendant joining the Stipulation, this Stipulation
6 does not constitute a waiver of any defense, including but not limited to the defenses of lack of
7 personal jurisdiction, subject matter jurisdiction, improper venue, sufficiency of process, or
8 service of process; and

9 WHEREAS, plaintiffs and defendant HTC America, Inc., as well as any defendant
10 joining this Stipulation, agree that preservation of evidence in the CIQ cases is vital, that
11 defendants have received litigation hold letters, that they are complying with and will continue to
12 comply with all of their evidence preservation obligations under governing law, and that the
13 delay brought about by this Stipulation should not result in the loss of any evidence,

14 Now, therefore, pursuant to Civil Local Rule 7-12, plaintiffs in the above-
15 referenced case and defendant HTC America, Inc., by and through their respective counsel of
16 record, hereby stipulate as follows:

- 17 1. The deadline for HTC America, Inc. to answer, move, or otherwise respond to
18 plaintiffs' complaint shall be extended until the earliest of the following dates:
19 forty-five days after the filing of a consolidated amended complaint in these cases;
20 or forty-five days after plaintiffs provide written notice to defendant HTC
21 America, Inc. that plaintiffs do not intend to file a Consolidated Amended
22 Complaint; or as otherwise ordered by this Court or the MDL transferee court;
23 *provided*, however, that in the event that HTC America, Inc. should agree to an
24 earlier response date in any of these cases, except by court order, HTC America,
25 Inc. will respond to the complaint in the above-captioned case on that earlier date.
- 26 2. This extension is available, without further stipulation with counsel for plaintiffs,
27 to all named defendants who notify plaintiffs in writing of their intention to join
28 this Stipulation;

1 3. This Stipulation does not constitute a waiver by HTC America, Inc. or any other
2 named defendant joining the Stipulation of any defense, including but not limited
3 to the defenses of lack of personal jurisdiction, subject matter jurisdiction,
4 improper venue, sufficiency of process, or service of process.
5 4. As a condition of entry into this Stipulation, defendant HTC America, Inc. and any
6 other defendant(s) joining this Stipulation, and the plaintiffs, agree that they are
7 complying with and will continue to comply with all evidentiary preservation
8 obligations under governing law.

9 IT IS SO STIPULATED.

10
11 DATED: December 20, 2011

MUNGER, TOLLES & OLSON LLP

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13 By: /s/ Rosemarie T. Ring
14 Rosemarie T. Ring
15 Attorneys for Defendant
16 HTC America, Inc.

17 DATED: December 20, 2011

HAGENS BERMAN SOBOL SHAPIRO LLP

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19 By: /s/ Robert F. Lopez
20 Robert F. Lopez
21 Attorneys for Plaintiffs Patrick Kenny,
22 Justin Sharp, Jeremy Feitelson, and Greg
23 Feitelson and the Proposed Class

1 [PROPOSED] ORDER
2 PURSUANT TO STIPULATION, IT IS SO ORDERED.
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Dated: December 21, 2011


Edward J. Davila
United States District Judge

CERTIFICATION

2 I, Rosemarie T. Ring, am the ECF User whose identification and password are
3 being used to file this STIPULATION RE: EXTENSION OF TIME FOR DEFENDANT TO
4 RESPOND TO COMPLAINT AND [PROPOSED] ORDER EXTENDING TIME TO
5 RESPOND TO COMPLAINT. In compliance with General Order 45.X.B., I hereby attest that
6 Robert F. Lopezp concurred in this filing.

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